

Serial No. 10/774,982

Page 6 of 9

Remarks

Claim Objections

Claim 33 has been objected to based on the following informalities: the word "engages" on the sixteenth line should be "engage;" "attachment" in the eighteenth line is mistyped. Appropriate correction has been made. In addition, a typographical error at line 7 of claim 38 has been corrected ("butoff" to "bottom").

Claim Rejections -35 U.S.C. 112

Claims 33-37 stand rejected under 35 U.S.C. section 112 second paragraph as being indefinite. The Office has noted that proper antecedent basis for the term "an attachment rod" on line 15 of claim 33 should be clarified. Appropriate correction has been made.

Claim Rejections -35 U.S.C. 103

Claim 26-28, 32-34, 38, 39 and 41 stand rejected under 35 U.S.C. 103(a) as being unpatentable over West, U.S. Pat. No. 5,404,682 (West) in view of Meyer, U.S. Pat. No. 6,273,390 (Meyer). Applicant respectfully traverses. In particular, the Office relies on West's embodiments shown in FIGs. 1A, 1B and 1C. According to West, FIGs 1A and 1B show an **adjustable mount** while Fig 1C shows a **fixed position mount**. The adjustable mount embodiments of Figs. 1A and 1B the bolt 158 is described as follows:

To provide for adjusting the position of the seat 153 on the ball section surface 152, the bolt 158 coupling of pin 165 is intentionally loose to allow for movement of the bolt threaded end 158a across that coupling, which movement is provided for by the formation of the ball section hole 157 to allow a loose fit of the bolt 158 fitted therethrough. Accordingly, the bolt 158 can be tilted from the vertical, and that tilt will be reflected in the positioning of the seat 155 fitted thereto that is, in turn, translated to post 156. So arranged, the post can be positioned to the ground stake so as to compensate for an angle that the stake 161 is driven into the ground and for ground conditions, to mount the post 156 at a desired attitude. In practice, the adjustable mount of the invention allows for up to twenty (20) degrees of change in vertical attitude of post 156 to the ground surface whereto the ball section 151 is maintained.

(West, Col. 7, Lines 52-68)

Serial No. 10/774,982

Page 7 of 9

As noted, Fig 1C describes a **fixed position mount; it is not angularly adjustable. Nor does the 1C embodiment include the same component parts as FIGs. 1A and 1B.** As West states,

FIG. 1C *shows the seat 153 directly secured and rigidly mounted by bolt 158 to a top surface of a concrete slab*, supporting post 156 mounted thereto. Which arrangement does not allow for adjustment of the angle of the post that is seated on and at approximately a right angle to the concrete surface. In this arrangement the bolt 158 lower end 158d is anchored in the slab of concrete 180, the bolt threaded end 158a extending outwardly therefrom to fit through the center hole 166. The seat 153, in turn, is mounted in the open end of post 156, and passes through hole 168 in washer plate 167, to receive the nut 169 turned thereover, rigidly mounting the post 156 onto the top surface of cement slab 180. (West, col. 8, lines 1-14, emphasis supplied)

Accordingly, as West makes clear, the embodiment shown in FIG. 1C is a fixed position **alternative** to the embodiment shown in FIGs. 1A and 1B. *There is no teaching or suggestion in West that the post mount of FIG. 1C includes or should include the ball section 151 of FIGs 1A and 1B.* It is simply not needed in the 1C fixed position embodiment. Likewise there is no teaching or suggestion in West that the adjustable mount of FIGs 1A and 1B *includes or should include a bolt 158 that is anchored in a slab of concrete.* Fixing the bolt in cement would eliminate adjustability of those embodiments. In other words, these are two distinct and alternative embodiments that differ materially in structure and in function. The Office fails to note these shortcomings of West and thus improperly combines and confuses components from the adjustable and non-adjustable alternative embodiments of West. Accordingly, the Office fails to make out a *prima facie* case of obviousness. Applicant respectfully requests that the rejection of claims 26-41 thus be withdrawn and that claims 26-41 be allowed.

Meyer does nothing to make up for the deficiencies of West. Contrary to the explanation provided by the Office, adding an elongate slot according to Meyer would not enable the post bases of West's embodiments 1A, 1B, or 1C to become adjustable. In the FIG 1A and 1B embodiment, adjustability is already provided by the pinned bolt 158. Replacing the bolt hole 171 in the seat 153 with an elongate slot would likely make the plastic radially ribbed seat 153 less sound structurally. Nor would a slot make the FIG.

Serial No. 10/774,982

Page 8 of 9

1C embodiment adjustable. In the embodiment of FIG. 1C, as noted above, there is no ball section 151, thus, there is no bearing surface on which the seat 153 the seat could be adjusted. As noted above, West explicitly states that the seat of the FIG. 1C embodiment is *directly secured and rigidly mounted by bolt 158 to a top surface of a concrete slab*. No other references of record make up for the deficiencies noted above. Accordingly, applicant respectfully requests that the claims be allowed and that this application be passed to issue without further delay.

Applicant has noted the substantial benefits provided by embodiments of claimed invention previously but they bear repeating here. The claimed invention provides a simple and elegant solution to the problem of permanently setting a post outdoors, especially in climates where normal freeze thaw cycles and other factors will cause a post to shift in the ground over time and become misaligned. While the concept of an adjustable post mount is certainly not new, the present invention, which was designed by a person with more than 30 years of experience in the field of municipal maintenance in the harsh climate of Wisconsin, provides a simple and practical solution to the problem of setting and adjusting posts. In particular, embodiments of the present invention provide angular adjustability in a way that avoids the accumulation of moisture in both the stationary and movable portions of the post mount which would invariably cause damage and premature failure from freeze/thaw cycles and/or corrosion. The adjustable post mounts of the prior art of record completely fail in this regard. For example, embodiments of the Meyer patent provide a cup-like structure that channels moisture from the post above toward and into a recess 9 for holding the nut 41 into which the axial bolt 43 is secured. This structure most surely would result in premature corrosion of the nut, bolt, and mounting structure and not stand up to repeated freeze thaw cycles. Note that Fig. 7 of Meyer even shows recess 9 as positioned below grade. Nor is the problem of freeze thaw cycles and corrosion handled any better by West which provides an upwardly facing funnel-like channel in ball 152 of FIGs. 1A and 1B to direct moisture down and around the head of bolt 158. Nothing in the prior art of record makes up for the deficiencies of these references.

Serial No. 10/774,982

Page 9 of 9

Applicant respectfully requests that the Examiner allow the claims pending in the present application. The Examiner is invited to contact applicant's representative at the number shown below if there are any questions regarding this application or if prosecution of this application may be assisted thereby.

Respectfully submitted,

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